

Introduction

BACKGROUND

According to the Occupational Disease Act (ODA) of Montana, the indemnity¹ portion of a claim arising from an occupational disease is determined differently than an otherwise identical claim arising from a workers compensation injury. In particular, the indemnity portion of an occupational disease claim is subject to the following two adjustments:

1) **Apportionment:**

Based on the apportionment provision of the ODA, § 39-72-706, a claimant's benefits for wage losses are reduced by a percentage that represents the non-occupational factors that contributed to the claimant's condition.

2) **\$10,000 Limitation:**

Based on the ODA, § 39-72-405, a maximum of \$10,000 in indemnity benefits are available to a claimant who is permanently partially disabled.

The Montana Supreme Court recently issued two decisions that affect benefit entitlements under the ODA. These decisions, Debra Stavenjord vs. State Fund and Cassandra Schmill vs. Liberty Northwest Insurance Company, find that claimants under the ODA are entitled to the same benefits available under the Workers Compensation Act.

The Employment Relations Division of the Montana Department of Labor and Industry ("Montana" or "the State") has requested Insurance Services Office, Inc. ("ISO") to prepare an estimate of the impact of eliminating both apportionment and the \$10,000 limitation when calculating indemnity payments for occupational disease claims.²

OBJECTIVE

The objective of our study is to:

1. Determine the effect of eliminating apportionment and the \$10,000 limitation on future occupational disease claims and overall workers compensation claims for the year ending 6/30/04.

This report responds to this objective.

¹ Throughout this report, the term "indemnity" refers to wages.

² If both apportionment and the \$10,000 cap are applicable to a single claim, then the cap is applied first and then apportionment is applied afterwards.



RELIANCES AND LIMITATION

The results of our study are based on the information provided by Montana, including a database of workers compensation and occupational disease claims and other information regarding Montana law and practices.

In preparing our report, we have relied upon the data and information provided. We have reviewed the data for reasonability, but have not audited the data. Any material error in the data or other information provided to us could substantially affect our recommendations. In such event, ISO cannot be responsible for any consequences resulting from its use of incorrect information or data in forming its opinions or making its recommendations.

The data provided was from records maintained by the Montana Department of Labor and Industry. The records needed to be summarized for our purposes here (see section 3 for more details). The records were not part of a financial record keeping system (such as insurance company claims records) and did not include reserves (estimates of unpaid losses). The uncertainty of our estimates is increased since we could not project losses to ultimate value, but instead relied on the distribution of losses for a group of immature claims.

We have assumed that the workers compensation and occupational disease claims database is a representative sample of all such claims incurred in Montana. If the claims database is biased in some manner, then the results based on this data may be distorted.

By their nature, future losses are subject to variability. The ultimate amounts depend on future events, the result of which cannot be known in advance. Future losses may differ substantially from our estimates.

This report is for the use of Montana State staff. This report may be released to others considering the effect of apportionment and the \$10,000 cap on occupational disease claims, provided that it is distributed in its entirety. All other distributions of the report require the prior consent of ISO. The actuaries signing this report are available to answer questions about it.



Executive Summary

The key results of our analysis are summarized below. Supporting documentation, background information and the details of our analysis can be found in following sections of this report and the exhibits.

We estimate that eliminating both apportionment and the \$10,000 cap will cause total payments associated with the occupational disease and workers compensation system to increase by 0.6%.

The table below shows estimates of the percent increases in payments that result from eliminating apportionment and the \$10,000 cap on various components of the occupational disease and workers compensation system.

PERCENT INCREASE IN PAYMENTS RESULTING FROM ELIMINATING APPORTIONMENT AND THE \$10,000 LIMITATION			
COMPONENT	EFFECT OF ELIMINATING APPORTIONMENT	EFFECT OF ELIMINATING \$10,000 CAP	TOTAL EFFECT
Occupational Diseases (Indemnity Only)	5.6%	8.0%	14.0%
Occupational Diseases (Indemnity and Medical Combined)	2.7%	4.1%	6.9%
Occupational Diseases and Workers Compensation Injuries (Indemnity and Medical Combined)	0.2%	0.4%	0.6%

We determined the percentages shown in the above table sequentially. For example, we first calculated the impact of eliminating apportionment on occupational disease claims. Then, after apportionment has been eliminated, we then determined the effect of removing the \$10,000 limitation on permanent partial occupational disease claims.

We have assumed that the workers compensation and occupational disease claims database is a representative sample of all such claims incurred in Montana. If the claims database is biased in some manner, then the results based on this data may be distorted. As a result, percentage impacts shown in the above table should be viewed as approximations rather than exact values.

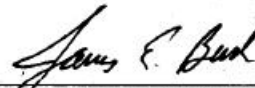


We are pleased to have conducted this study for the Employment Relations Division of the Montana Department of Labor & Industry and look forward to answering any questions you may have.

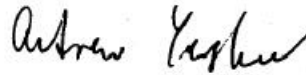
Respectfully submitted,



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